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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,378	11/21/2003	Rui-Zhi Huang	DF-03300	3603

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EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,378

Applicant(s)

HUANG ET AL.

Examiner

Bret C Hayes

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: (claim 1, lines 6 and 7) “a hydrous and an anhydrous states” should be --hydrous and anhydrous states--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 5, 6, 9 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claims 5 and 20 recite the limitation "the manpower cost" in line 3 of each. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 9 recites “for preventing bugs”, which appears to be unclear as “bugs” cannot be “prevented” by a silver color. Examiner would suggest, for example, --for preventing insect infestation--, or --for preventing insect encroachment--.
6. Any unspecified claim is rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Nos. 5,647,951 to Bayer in view of 2,787,238 to Luce.

9. Re – claims 1, 16 and 17, Bayer discloses the invention substantially as claimed including a weed-preventing paper 2 comprising a paper body 6 having at least a cross opening 10, and a weed-preventing agent 4. However, Bayer does not disclose a water indicator. Luce teaches a water indicator, as set forth at col. 2, line 54, (2:54), printed on a paper body in the analogous art of hygrometric indication for the purpose of detecting a state of moisture. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bayer to include a water indicator printed on a paper body as taught by Luce in order to detect a state of moisture.

10. Re – claim 2, Bayer further discloses the opening 10 having a lateral crosscut 14 extending to an edge of the body 6.

11. Re – claims 3 and 18, Luce further teaches the indicator containing cobalt chloride (3:5).

12. Re – claims 4 and 19, Luce further teaches the indicator being printed in the shape a word or figure, Figs. 1 and 2, for example.

13. Re – claims 5 and 20, Bayer discloses a control-release fertilizer, 1:47.

14. Re – claim 6, Bayer discloses the control-release fertilizer being ‘integrated’ into the body 6.

15. Re – claim 7, Luce further teaches a beautifying figure printed on the paper. I find “G” and “NG” to be quite beautifying figures.

16. Re – claim 8, Bayer in view of Luce disclose the claimed invention as applied above.

However, Bayer in view of Luce does not disclose the figure being an image of a flower, a grass,

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a person and a scenery. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the figure be an image of a flower, a grass, a person and a scenery, since there is no invention in merely changing the shape or form of an article without changing its function except in a design patent. *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23.

17. Re – claim 10, Bayer discloses the paper 2 being applied to a plant, Fig. 1, for example, and a tree, 1:45.

18. Re – claim 11, Bayer discloses the body 6 being circular.

19. Re – claim 12, Bayer does not disclose the body 6 having a diameter equal to that of a pot. It would have been an obvious matter of design choice to size the body for a pot, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

20. Re – claims 14 and 22, Bayer discloses paper which is made of a biodegradable fiber, 1:52.

21. Claims 13, 15 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayer in view of Luce, further in view of 5,191,734 to Weber et al.

22. Re – claims 13 and 21, Bayer in view of Luce discloses the claimed invention as applied above except for the agent being selected from the group consisting of a black carbon, a silicon dioxide and a titanium dioxide. Weber et al. teach an agent being selected from the group consisting of a black carbon, a silicon dioxide and a titanium dioxide, 2:53, in the same field of endeavor for the purpose of controlling weeds, 2:12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Bayer in view of

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Luce to include an agent selected from the group consisting of a black carbon, a silicon dioxide and a titanium dioxide, in order to control weeds.

23. Re – claim 15, Bayer discloses the fiber being one of a plant fiber 6 and a polymer fiber 4.

Conclusion

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu, can be reached at (703) 305 – 7421. The fax number is (703) 872 – 9306.



TERI P. LUU
SUPERVISORY PRIMARY EXAMINER

bh

9/15/04